

119TH CONGRESS
2D SESSION

S. _____

To amend the Agricultural Marketing Act of 1946 to establish a mandatory price reporting program for fertilizer, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. THUNE (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a mandatory price reporting program for fertilizer, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fertilizer Trans-
5 parency Act of 2026”.

6 **SEC. 2. FERTILIZER MANDATORY REPORTING.**

7 Subtitle A of the Agricultural Marketing Act of 1946
8 (7 U.S.C. 1621 et seq.) is amended by adding at the end
9 the following:

1 **“SEC. 210B. FERTILIZER MANDATORY REPORTING.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) AFFILIATE.—The term ‘affiliate’ means,
4 with respect to a manufacturer or wholesaler (ex-
5 cluding a cooperative), a person that directly or indi-
6 rectly owns, controls, or holds, with voting power,
7 not less than 5 percent of the outstanding voting se-
8 curities of the manufacturer or wholesaler (excluding
9 a cooperative).

10 “(2) COOPERATIVE.—

11 “(A) IN GENERAL.—The term ‘cooperative’
12 means—

13 “(i) an association of agricultural pro-
14 ducers acting pursuant to—

15 “(I) the Act entitled ‘An Act to
16 authorize association of producers of
17 agricultural products’ (commonly
18 known as the ‘Capper-Volstead Act’)
19 (7 U.S.C. 291 et seq.);

20 “(II) the Agricultural Adjust-
21 ment Act (7 U.S.C. 601 et seq.), reen-
22 acted with amendments by the Agri-
23 cultural Marketing Agreement Act of
24 1937; or

25 “(III) the Act of July 2, 1926
26 (commonly known as the ‘Cooperative

1 Marketing Act') (7 U.S.C. 451 et
2 seq.);

3 “(ii) a farmers’ cooperative organiza-
4 tion described in subsection (b)(1) of sec-
5 tion 521 of the Internal Revenue Code of
6 1986 and exempt from taxation under sub-
7 section (a) of that section; and

8 “(iii) an association of agricultural
9 producers otherwise operating on a cooper-
10 ative basis for the benefit of its members.

11 “(B) INCLUSIONS.—The term ‘cooperative’
12 includes any entity not less than 25 percent of
13 which is owned by a cooperative, as defined in
14 subparagraph (A).

15 “(3) MARKETED.—The term ‘marketed’ means
16 the sale or other disposition in commerce of—

17 “(A) nitrogen, phosphorous, or potassium
18 for use as fertilizer; or

19 “(B) a fertilizer product.

20 “(4) RETAILER.—The term ‘retailer’ means a
21 person or entity that primarily sells fertilizer prod-
22 ucts at retail.

23 “(5) SECRETARY.—The term ‘Secretary’ means
24 the Secretary of Agriculture.

1 “(6) WHOLESALER.—The term ‘wholesaler’
2 means any person or entity, not including a coopera-
3 tive, engaged in the business of buying and selling
4 fertilizer or fertilizer products for resale or distribu-
5 tion.

6 “(b) ESTABLISHMENT.—The Secretary shall estab-
7 lish a program of fertilizer and fertilizer product price in-
8 formation reporting that will—

9 “(1) provide timely, accurate, and reliable mar-
10 ket information that can be readily understood by
11 farmers and market participants;

12 “(2) facilitate more informed marketing deci-
13 sions; and

14 “(3) promote competition in the fertilizer and
15 fertilizer products industry.

16 “(c) GENERAL REPORTING PROVISIONS APPLICABLE
17 TO MANUFACTURERS, WHOLESALERS, AND THE SEC-
18 RETARY.—Whenever the prices or quantities of fertilizer
19 or fertilizer products are required to be reported or pub-
20 lished under this section, the prices or quantities shall be
21 categorized so as to clearly delineate—

22 “(1) the prices or quantities, as applicable, of
23 the fertilizer or fertilizer product marketed in the
24 United States by a domestic manufacturer or whole-

1 saler or an affiliate of a domestic manufacturer or
2 wholesaler; and

3 “(2) the prices or quantities, as applicable, of
4 the fertilizer or fertilizer product marketed in the
5 United States by a foreign manufacturer or whole-
6 saler or an affiliate of a foreign manufacturer or
7 wholesaler.

8 “(d) WEEKLY REPORTING.—

9 “(1) NITROGEN, PHOSPHOROUS, AND POTAS-
10 SIUM.—The corporate officers or officially des-
11 ignated representatives of each manufacturer or
12 wholesaler of nitrogen, phosphorous, or potassium
13 for use as fertilizer shall report to the Secretary at
14 least weekly—

15 “(A) the prices, as marketed, for nitrogen,
16 phosphorous, or potassium, as applicable; and

17 “(B) the quantities of nitrogen, phos-
18 phorous, or potassium, as applicable, manufac-
19 tured and marketed, as applicable.

20 “(2) FERTILIZER PRODUCTS.—The corporate
21 officers or officially designated representatives of
22 each manufacturer or wholesaler of a fertilizer prod-
23 uct shall report to the Secretary at least weekly—

24 “(A) the prices for the fertilizer product;
25 and

1 “(B) the quantity of the fertilizer product
2 manufactured or marketed, as applicable.

3 “(3) MANDATORY REPORTING EXEMPTION FOR
4 COOPERATIVES AND NON-MANUFACTURER RETAIL-
5 ERS; VOLUNTARY REPORTING.—The Secretary
6 shall—

7 “(A) exempt all cooperatives and retailers
8 (except for retailers that are also manufactur-
9 ers) from any mandatory price reporting under
10 this section; and

11 “(B) provide a mechanism for cooperatives
12 and retailers to voluntarily and confidentially
13 report the prices and quantities described in
14 subparagraphs (A) and (B) of paragraphs (1)
15 and (2)—

16 “(i) directly to the Secretary; or

17 “(ii) through the program established
18 under subsection (e).

19 “(4) PUBLICATION.—The Secretary shall make
20 the information reported to the Secretary under this
21 subsection available to the public—

22 “(A) not less frequently than weekly; and

23 “(B) in a manner that ensures the infor-
24 mation is published—

25 “(i) on a national basis; and

1 “(ii) on a regional or statewide basis,
2 as the Secretary determines to be appro-
3 priate.

4 “(5) COMPETITIVE EFFECTS ANALYSIS.—The
5 Secretary may conduct a competitive effects analysis
6 of the information reported to the Secretary under
7 this subsection.

8 “(e) FERTILIZER RETAIL SURVEY.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish a program within Market News of the Agricul-
11 tural Marketing Service—

12 “(A) to conduct not less frequently than
13 weekly surveys of retail fertilizer prices;

14 “(B) to obtain commercially available esti-
15 mates of the retail prices described in subpara-
16 graph (A); and

17 “(C) to provide State or regional estimates
18 or benchmarks and formulas to allow estimation
19 of local prices.

20 “(2) MAINTENANCE OF EXISTING ACTIVI-
21 TIES.—The program established under paragraph
22 (1) shall supplement, and not supplant, existing
23 input price collection activities of the Secretary.

24 “(f) SUMMARY OF DATA.—

1 “(1) IN GENERAL.—The Secretary shall, di-
2 rectly or through 1 or more cooperative agreements
3 with 1 or more affiliated agricultural research pro-
4 grams, not less frequently than weekly summarize
5 and make available on a dashboard or other resource
6 easily accessible to farmers and market partici-
7 pants—

8 “(A) the information reported to the Sec-
9 retary under subsection (d); and

10 “(B) the retail survey prices and commer-
11 cially available estimates obtained under sub-
12 section (e).

13 “(2) PROTECTION OF CONFIDENTIALITY.—In
14 carrying out paragraph (1), the Secretary shall ag-
15 gregate the information and data in a manner that
16 prevents confidential business information and the
17 identity of persons, including parties to a contract,
18 from being disclosed publicly.

19 “(3) DISCLOSURE BY FEDERAL GOVERNMENT
20 EMPLOYEES.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), no officer, employee, or agent of the
23 United States shall, without the consent of the
24 manufacturer, wholesaler, or other person con-
25 cerned, divulge or make known in any manner

1 any facts or information regarding the business
2 of the manufacturer, wholesaler, or other per-
3 son that was acquired through reporting re-
4 quired under subsection (d).

5 “(B) EXCEPTION.—Information obtained
6 by the Secretary under subsection (d) may be
7 disclosed—

8 “(i) to agents or employees of the De-
9 partment of Agriculture in the course of
10 their official duties under this subtitle;

11 “(ii) as directed by the Secretary or
12 the Attorney General, for enforcement pur-
13 poses; or

14 “(iii) by a court of competent jurisdic-
15 tion.

16 “(C) DISCLOSURE UNDER FREEDOM OF
17 INFORMATION ACT.—Notwithstanding any other
18 provision of law, no facts or information ob-
19 tained under this subtitle shall be disclosed in
20 accordance with section 552 of title 5, United
21 States Code.

22 “(g) REVIEW.—Not less frequently than once every
23 2 years, the Secretary shall review the information re-
24 quired to be reported to the Secretary by manufacturers
25 and wholesalers under this section.

1 “(h) OUTDATED INFORMATION.—If the Secretary de-
2 termines under a review under subsection (g) that infor-
3 mation required to be reported under this section no
4 longer accurately reflects the methods by which nitrogen,
5 phosphorous, and potassium for use as fertilizer or fer-
6 tilizer products are valued and priced by manufacturers
7 and wholesalers, the Secretary shall, after public notice
8 and an opportunity for comment, promulgate regulations
9 to specify additional information that shall be reported
10 under this section.

11 “(i) APPLICATION OF ANTITRUST LAWS.—

12 “(1) IN GENERAL.—Nothing in this section
13 modifies, impairs, or supersedes the operation of any
14 of the antitrust laws.

15 “(2) DEFINITION OF ANTITRUST LAWS.—In
16 this subsection, the term ‘antitrust laws’—

17 “(A) has the meaning given the term in
18 subsection (a) of the first section of the Clayton
19 Act (15 U.S.C. 12); and

20 “(B) includes section 5 of the Federal
21 Trade Commission Act (15 U.S.C. 45) to the
22 extent that such section applies to unfair meth-
23 ods of competition.”.